

Sumter City-County Board of Appeals

October 13, 2010

BOA-10-32, 2855 Broad St. Ext (County)

I. THE REQUEST

Applicant: Daniel Andrews

Status of the Applicant: Authorized Agent for Property Owner

Request: Request for a variance from Article 6, Section G: Retrofitting Parking Lots, Buffers, and Landscaping; Article 8, Section D: Landscaping Standards and Article 8, Section J: Parking & Design Regulations to operate a new business on an existing nonconforming commercial parcel.

Location: 2855 Broad St. Extension

Present Use/Zoning: Vacant /General Commercial, Highway Corridor Protection District (GC/HCPD)

Tax Map Reference: 186-04-01-005

II. BACKGROUND

The applicant, Daniel Andrews, is requesting a variance from the parking lot and landscaping retro-fit requirements for a proposed business selling outdoor storage buildings to be located at 2855 Broad St. Ext at a vacant commercial site. There is no record of a business license at this address. The applicant is asking for relief from the parking lot improvement standards, as well as the landscaping and bufferyard standards on the north side of the property and a reduced bufferyard along the street frontage, because of the size and configuration of the parcel and practical considerations as to the proposed use.

Because the structure has been vacant for more than six (6) months, under Section 6.e.1, 6.g.1 and 8.d.11 the parking lot, landscaping, and bufferyards must be brought up to ordinance requirements. The site does not meet the current development standards related to parking lots, landscaping and buffering and is therefore considered to be nonconforming. In order for the Zoning Administrator to approve the business license for the proposed tenant, a variance must be granted by the Board of Appeals for the alternative landscaping and site development measures proposed by the applicant.

A site plan has been submitted that shows partial compliance with Ordinance requirements. The property is zoned General Commercial (GC) and lies in the Highway Corridor Protection District (HCPD), which contains additional design and appearance standards with regards to parking lots and landscaping.

Existing Conditions

The site at 2855 Broad St. Ext contains two buildings located on an irregularly shaped one-acre parcel, as shown in the aerial photograph to the right. There is a modular office building and a single-wide manufactured home used as storage in the rear of the parcel that will be removed. Paved parking for up to ten (10) separate vehicles is shown to be available, but the parking lot is unimproved. Also, there is no specifically designated handicapped space, which is required to be provided in an easily accessible route to the main entrance.

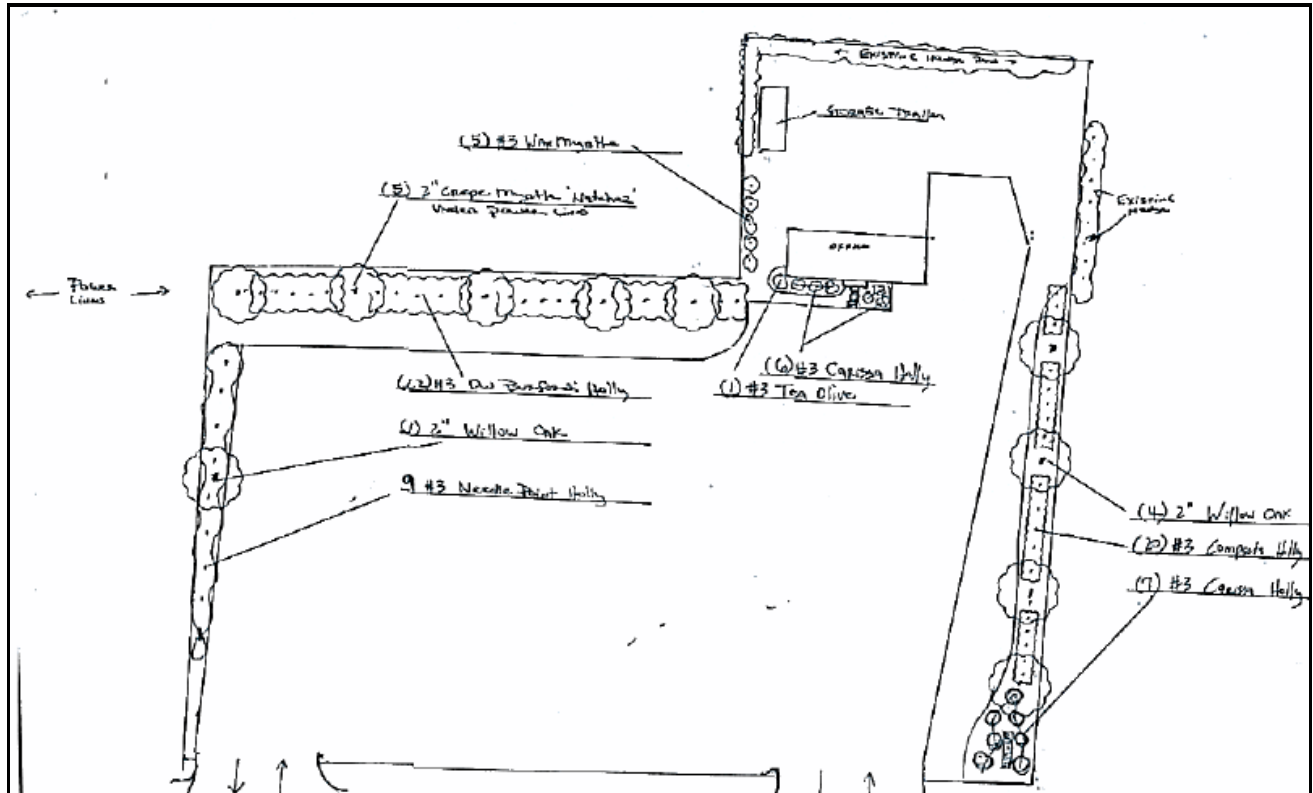


The entire parcel was developed in the mid-1980s according to Tax Assessor records, which was prior to the current Zoning Ordinance, and it is non-conforming with respect to parking lot development standards, landscaping and bufferyard requirements. The paved parking areas lack concrete curb and gutter and there is a row of small bushes along the front street yard that do not meet the front bufferyard width requirements. The grassed area along the west side extends partially across the front toward the parking lot, and could be used as display area. There is additional grassed area behind the building and to the northeast that would be used as additional storage and display area for the outdoor storage barns. Overhead power lines that cross the property at the front ROW limit the types and location of landscaping that could be installed.

The property is accessed by a circular entrance drive on Broad Street that has two access points. The internal circulation of the site is affected by the fact that the storage barns and sheds will need to have clear movement within the property in order to arrange stock for sale and in order to deliver these structures to customers.

There are several other businesses that utilize outside storage in the general vicinity; most of these are manufactured home retailers. These businesses are allowed in the Highway Corridor and landscaping that would enhance the aesthetics of these properties is required under the normal Ordinance standards. However, these businesses are located on much larger parcels. The parcel immediately adjoining the property to the west is residential in use, is being farmed, and is zoned commercial. Currently there is no bufferyard or screening on the property along any of the property lines, and because of the size of this parcel there is very limited space to install landscaping and also accommodate the proposed use.

The proposed site landscaping plan is shown below. It is not to scale and does not indicate the exact location of property lines and easements that could affect the layout. However it does offer a number of canopy and understory trees to be installed in side bufferyards to enhance the site. There are some existing large trees in the rear of the property and partially along the eastern boundary. There are also additional plantings located around the existing commercial office. There is no additional landscaping proposed for the street yard, which is required to be 10 feet wide along the front property line.



Requirements

The commercial office building on the site is 1612 sq. ft. in size according to tax records. Based on the proposed use as a retail establishment selling outdoor sheds and storage barns, this site is required to have 1 parking space for every 350 sq. ft. of gross floor area, or five (5) total parking spaces including one (1) handicapped van accessible space. There is more than enough area to accommodate the required number of parking spaces. However, installation of curbing and guttering would be problematic because it will interfere with the internal circulation on the site, and would prevent the storage buildings to be moved around safely without damage.

In order to comply with Section 8.j.3.b of the City Zoning Ordinance which states: **“Surfacing, Drainage and Maintenance:** Off-street parking facilities shall be properly graded for drainage to prevent damage to abutting property and/or public streets and alleys. Parking lots shall be surfaced with asphalt, concrete, or other surfaces approved by the Sumter City-County Planning Commission. Off street parking lots shall include concrete curbs and gutters, maintained in a clean, orderly and dust-free condition, and not used for the sale, repair or the dismantling or servicing of any vehicles, equipment, materials or supplies...”, the parking lot must be retrofitted

with concrete curb and gutter. In addition, customer parking areas must be clearly delineated separately from outdoor inventory display areas.

According to Article 8, Section D: Landscaping Standards and Article 8, Section 8.j.3 and Exhibit 23, the property must be retrofitted to provide 5 regular and one (1) handicap van accessible parking spaces with concrete curb and gutter and the following landscaped areas:

- 10 foot-wide bufferyard located out of the public ROW along Broad St outside of the two established curb-cuts;
- 5 foot-wide bufferyard along the east side and 10 feet wide along the west sides containing a residence
- Curb and gutter at edge of paved areas
- Service area for garbage collection and utilities shall be screened and/or fenced to the equivalent of a five-foot bufferyard or privacy fence or some combination of the two.
 - *Plant materials used for screening shall be of sufficiently large and planted in such a fashion that a year-round screen at least six (6) feet in height shall be produced within three (3) growing seasons.*
- Plantings shall be watered regularly by an automatic and timed irrigation system or other acceptable methods of periodic watering.
- All plantings shall be installed according to acceptable horticultural standards.
- Deciduous street trees must have straight trunks and be of two-inch (2”) caliper at time of planting. They must be placed at intervals of forty (40) feet or else shall have smaller understory trees planted in between.
- The site landscaping plan must be finalized and approved by staff at the Sumter City-County Planning Department because of the property’s location within the Highway Corridor Protection District (HCPD).

A note to this issue: The Planning Commission has directed Planning Staff to review and draft an amendment to the non-conforming use section of the Zoning Ordinance to better address non-conforming sites. Staff is working on an approach which would require reasonable improvements to a non-conforming site in a manner directly proportional to the scale of the project, improvement, investment or property.

III. THE REQUEST



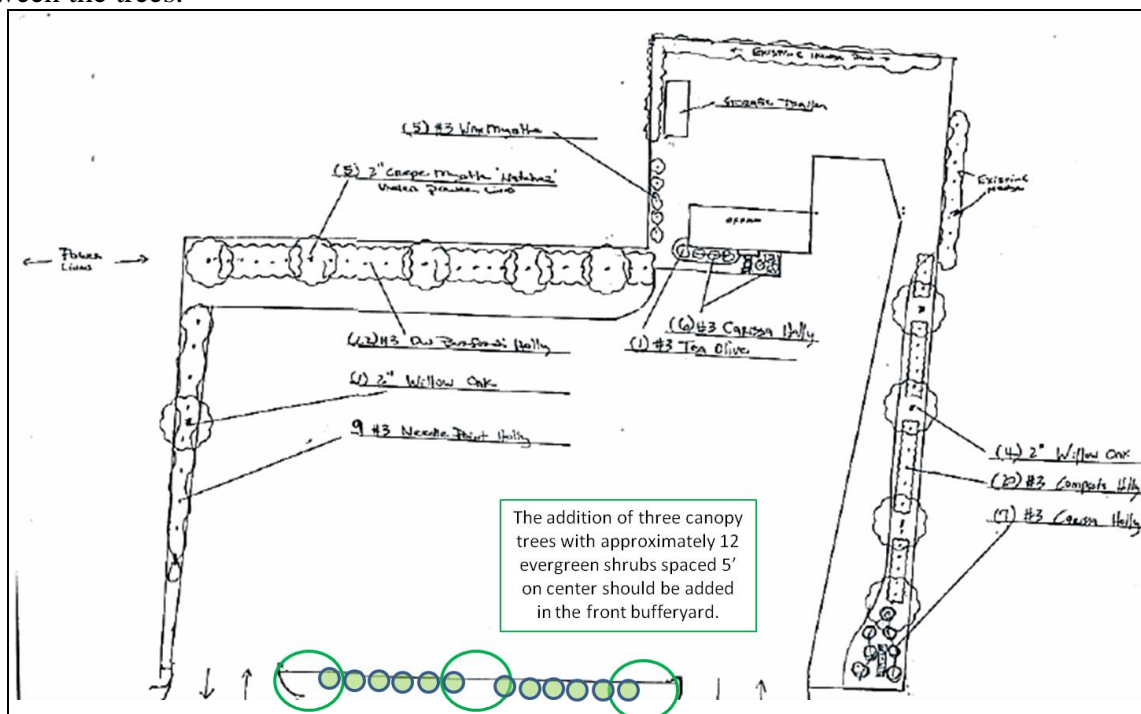
The applicant is seeking relief from the parking lot curb and gutter retro-fitting requirement and landscape/bufferyard requirements. The parking spaces will need to be located along the front of the building in order to make room for the movement of storage buildings within the site; the spaces that are currently available on the east side of the office would not be able to be used. As stated, the applicant plans to place some landscaping along the

eastern and western borders of the property. These areas will vary in width and in some areas will be narrower than the ordinance requirements because of visibility along the western edge, and the narrow distance between the office building and the east property lines. The photograph on the previous page illustrates the location of power lines and the grassed areas along the front of the office building that will be enhanced with landscaping.

Also, the applicant seeks to have some flexibility in the type of landscaping because there are some mature trees along the property lines, and the location of the power lines that cross the property do limit the height of what species could grow to full maturity in those particular areas. The applicant plans to install some additional plantings within the present grassed area delineated on the site plan along the area of the parking lot near the office building, where they will enhance the site without limiting the movement of outdoor inventory. The proposal does not include installation of landscaping along the front street yard as, in the applicant's opinion; it could limit visibility of the displayed merchandise. However, this property is located within the County Highway Corridor Protection District, a design review district intended to promote development that is compatible with the function, capacity, and design of major arterial roadways, one such way is through implementation of appropriate screening and landscaping. Specifically, Section 3.v.3.d of the Zoning Ordinance states:

Outdoor sales lots and open storage areas of commercial or industrial projects shall not be permitted, unless adequately screened or removed from public view...

Staff believes that implementation of additional landscaping in the areas indicated in the graphic below will address the screening requirements of Section 3.v.3.d while enhance the visibility and aesthetic of the site. As shown in the graphic below, Staff proposes the implementation of three (3) canopy trees with approximately twelve (12) evergreen shrubs to be installed 5 ft. on center between the trees.



In order for the Board of Appeals to grant a variance from the Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

IV. FOUR-PART TEST

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.

- The property is an existing nonconforming site that is located in the Highway Design Corridor but was developed prior to any established development regulations. It is very irregular in shape. The commercial development in the immediate area is similar to the proposed use but on parcels that are much larger than this parcel.

2. These conditions do not generally apply to other property in the vicinity.

These conditions *do not* generally apply to other properties in the vicinity based on the following:

- There are no other commercial properties in the area that share the same limitations as to size and shape or overhead power lines. The adjoining agricultural property contains a residence but that property is also zoned GC/PD and the use on this parcel will be buffered from view with landscaping and by distance. There are no other properties with internal configuration limitations because of the location of a building in relation to the need to display and move merchandise. The property is also limited because of the fact that the storage area on the north side must be kept accessible, and to install landscaping in this area would render the area inaccessible and therefore useless. Since it is a small site, to limit the use of this area would severely limit the viability of the parcel.

3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Absolute application of the ordinance requirement ***will prohibit*** or unreasonably restrict the utilization of this property due to the following:

- Due to the location of the present office building and overhead power lines, the site limitations as to building location and the proximity of parking area to outdoor storage and display area limit curb and guttering, if the variances are not granted the property could not

be used as an outdoor sales business. The property is currently vacant, and any site upgrades including landscaping would be a definite improvement to the area.

4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

- The applicant has presented a development plan that addresses the intent of the Zoning Ordinance, and Planning Staff believes the request to be reasonable. Improvements to overwhelmingly non-conforming sites better meet the public good than a vacant parcel that would continue to degrade over time.

V. STAFF RECOMMENDATION

Based on the fact that the requirements of the Four-Part Test are met, Staff believes this reasonable and proportionate approach is in the public interest. Staff recommends approval of BOA-10-32 contingent upon submission of a revised landscape plan showing the addition of three (3) canopy trees and approximately twelve (12) evergreen shrubs planted along the street ROW as shown in the graphic on page 5 of this report. The landscaping should also be on a timed irrigation system as the Ordinance requires. A site plan must also be submitted that shows actual dimensions of all property lines and easements, addresses all of the site upgrades proposed, and delineates the areas where outdoor storage and display will be located.

While we do not envision a time where the four part test supports a 100% variance for all site standards, the public good is served when reasonable improvement can be absorbed by property owners in the course of increased business and tenancy.

VI. DRAFT MOTIONS for BOA-10-32

- A. I move that the Sumter Board of Appeals approve BOA-10-32 with the conditions proposed by Staff, subject to the findings of fact and conclusions contained in the draft order dated July 14, 2010 attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-10-32 on the following findings of fact and conclusions:
- C. I move that the Sumter Board of Appeals enter an alternate motion for BOA-10-32.

VII. ZONING BOARD OF APPEALS – OCTOBER 13, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, October 13, 2010, voted to approve this variance request based on staff recommendation, with contingencies, minus the three canopy trees & 12 evergreen shrubs at the front of the property.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-10-32, 2855 Broad St. Ext (County)
October 13, 2010

Date Filed: October 13, 2010

Permit Case No. BOA-10-32

The Board of Zoning Appeals held a public hearing on Wednesday, October 13, 2010 to consider the request of Daniel Andrews for Mark Reed, 2855 Broad Street, Sumter, SC 29150 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The property is an existing nonconforming site that is located in the Highway Design Corridor but was developed prior to any established development regulations. It is very irregular in shape. The commercial development in the immediate area is similar to the proposed use but on parcels that are much larger than this parcel.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** Generally apply to other property in the vicinity based on the following findings of fact:

There are no other commercial properties in the area that share the same limitations as to size and shape or overhead power lines. The adjoining agricultural property contains a residence but that property is also zoned GC/PD and the use on this parcel will be buffered from view with landscaping and by distance. There are no other properties with internal configuration limitations because of the location of a building in relation to the need to display and move merchandise. The property is also limited because of the fact that the storage area on the north side must be kept accessible, and to install landscaping in this area would render the area inaccessible and therefore useless. Since it is a small site to limit the use of this area would severely limit the viability of the parcel.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

Due to the location of the present office building and overhead power lines, the site limitations as to building location and the proximity of parking area to outdoor storage and display area that

limits curb and guttering, if the variances are not granted the property could not be used as an outdoor sales business. The property is currently vacant, and any site upgrades including landscaping would be a definite improvement to the area.

4. The Board concludes that authorization of the variance ☐will –☒will not be of substantial detriment to adjacent property or to the public good, and the character of the district ☐will - ☒will not be harmed by the granting of the variance based on the following findings of fact:

The applicant has presented a development plan that addresses the intent of the Zoning Ordinance, and Planning Staff believes the request to be reasonable. Improvements to overwhelmingly non-conforming sites better meet the public good than a vacant parcel that would continue to degrade over time

THE BOARD, THEREFORE, ORDERS that the variance is ☐ DENIED –☒ GRANTED, subject to the following conditions:

The Sumter City-County Board of Appeals at its meeting on Wednesday, August 11, 2010, voted to grant this request for a variance with the following conditions:

- 1) The addition of three (3) canopy trees and approximately 12 evergreen shrubs along the street ROW, and
- 2) Landscaping be on a timed irrigation system as the Ordinance requires,
- 3) Submission of a revised landscape plan and site plan that is scaled and shows dimensions of all property lines and easements, addresses all of the site upgrades proposed and delineates the areas where outdoor storage and display will be located

Approved by the Board by majority vote.

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.